

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

CHOICE HOTELS INTERNATIONAL,
INC.,

Plaintiff,

v.

KUMAR & BIRLA, LLC, a Washington
limited liability company; INDERJIT
KUMAR, an Individual; REEMA DATT
BIRLA, an Individual; and, DEV DUTT
BIRLA, an Individual,

Defendants.

No. CV-11-5100-LRS

ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

Plaintiff's Motion for Summary Judgment or Alternatively Partial
Summary Judgment (ECF No. 46) was heard telephonically on October 18,
2012 at 2:30 p.m. The Defendants filed no response and did not appear for the
hearing. Ryan Foltz and Timothy Lindell appeared on behalf of Plaintiff.

GOOD CAUSE APPEARING and based upon the facts, authorities, and
evidence presented in and with Plaintiff Choice Hotels International, Inc.'s
("Plaintiff" or "Choice Hotels") Motion for Summary Judgment or Alternatively

1 Partial Summary Judgment, ECF No. 46, said motion is hereby GRANTED.

2 Accordingly, the following orders are hereby issued:

3
4 (1) Judgment is entered in favor of Plaintiff and against Defendants,
5 and each of them, jointly and severally, for liability on each and all claims for
6 relief stated in Plaintiff's Complaint (Doc. 1);
7

8 (2) A permanent injunction is hereby issued pursuant to Rules 56 and
9 65 of the Federal Rules of Civil Procedure to restrain and enjoin defendants
10 Kumar & Birla, LLC; Inderjit Kumar, Reema Datt Birla, and Dev Dutt Birla
11 (collectively "Defendants") as well as each of their agents, servants,
12 employees, attorneys, and all those in active concert with them from:
13

14 a) displaying, advertising, marketing, promoting, stating or
15 suggesting affiliation with, or otherwise using in commerce, or contributing to
16 the use of in commerce, any of the ECONO LODGE family of marks, as are
17 defined below, or using or contributing to the use in commerce any goods,
18 products, or tangible property bearing any of the ECONO LODGE family of
19 marks;
20
21

22 b) Engaging in any activity that misleads or confuses or is likely
23 to mislead or confuse the public to the detriment of Choice Hotels, including
24 (without limitation) any activity that constitutes a violation of 15 U.S.C.
25

1 § 1125(a)(1);

2 c) Engaging in any activity that could or is likely to lead anyone
3 to believe that any product or service has been produced, distributed, offered,
4 advertised, displayed, licensed, sponsored, approved, authorized, or otherwise
5 used in commerce by or for Choice Hotels, when such is not true in fact; and/or
6

7 d) Assisting, aiding, abetting, or contributing to any other
8 person or entity in engaging in or performing any of the activities referred to
9 above.
10

11 The “ECONO LODGE family of marks,” as the term is used
12 herein, refers to and includes the following:
13

14 • United States Trademark Registration No. 813,642 (hereinafter,
15 “the ‘642 registration”) for the mark ECONO LODGE;
16

17 • United States Trademark Registration No. 1,799,814 (hereinafter,
18 “the ‘814 Registration”) for the mark ECONO LODGE + Design;
19

20 • United States Trademark Registration No. 2,178,518 (hereinafter,
21 “the ‘518 Registration”) for the mark ECONO LODGE;
22

23 • United States Trademark Registration No. 2,878,530 (hereinafter,
24 “the ‘530 Registration”) for the mark ECONO LODGE INN & SUITES;
25

• United States Trademark Registration No. 3,489,688 (hereinafter,

1 “the ‘688 Registration”) for the mark E ECONO LODGE + Design;

2 • United States Trademark Registration No. 3,522,065 (hereinafter,
3 “the ‘065 Registration”) for the mark E ECONO LODGE + Design;
4

5 • United States Trademark Registration No. 3,522,067 (hereinafter,
6 “the ‘067 Registration”) for the mark E ECONO LODGE INN & SUITES +
7 Design; and,
8

9 • United States Trademark Registration No. 3,522,199 (hereinafter,
10 “the ‘199 Registration”) for the mark E ECONO LODGE INN & SUITES +
11 Design.
12

13 (3) Defendants are further ordered to destroy and/or turn over to
14 counsel for Plaintiff any and all material, merchandise, and/or items in their
15 care, custody or control bearing any of the ECONO LODGE family of marks;
16

17 (4) Within 30 days of this order, Defendants are further ordered to file
18 and serve an affidavit confirming compliance with injunctive relief awarded by
19 the court herein; and
20

21 (5) Plaintiff is awarded its costs in this matter, pursuant to 15 U.S.C.
22 Section 1117, in an amount to be determined through additional briefing by
23 Plaintiff on November 19, 2012.
24

25 (6) Plaintiff is hereby given leave to file additional briefing for

determination of: (1) the damages amount; and (2) whether this case should be deemed exceptional and for an award of attorneys' fees pursuant to 15 U.S.C. § 1117(a). Said additional briefing shall be filed on or before November 19, 2012.

(7) The District Court Executive is directed to send a copy of this order to Defendants at the following last known addresses:

Kumar & Birla, LLC
300 North Ely Street #A
Kennewick, WA 99336
Fax: (509) 735-3854
bhavishanrai@gmail.com

Inderjit Kumar
Individual & Registered Agent of
Kumar & Birla, LLC
300 North Ely Street #A
Kennewick, WA 99336
bhavishanrai@gmail.com

Reema D. Birla
12754 Newport Ave. Apt. B
Tustin, CA 92780
devbirla@yahoo.com

Dev D. Birla
12754 Newport Ave. Apt. B
Tustin, CA 92780
devbirla@yahoo.com

IT IS SO ORDERED.

Dated this 26th day of November, 2012.

/s/ Lonny R. Suko
LONNY R. SUKO
United States District Judge